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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERT BERMAN,

Petitioner,

vs.

STATE OF NEVADA, et al.,

Respondents.

Case No. 2:21-cv-01359-APG-BNW

**MOTION FOR ENLARGEMENT OF TIME
TO FILE ANSWER TO AMENDED
PETITION (ECF NO. 6)

(FIRST REQUEST)**

Respondents move this Court for an enlargement of time of ninety (90) days from the current due date of December 2, 2022, up to and including March 2, 2023, in which to file their answer to Robert Berman's Amended Petition for a Writ of Habeas Corpus (ECF No. 6). This Motion is made pursuant to Fed. R. Civ. P. 6(b) and Rule 6-1 of the Local Rules of Practice and is based upon the attached declaration of counsel. This is the first enlargement of time sought by Respondents to file the answer, and the request is brought in good faith and not for the purpose of delay.

DATED: November 21, 2022.

Submitted by:

AARON D. FORD
Attorney General

By: /s/ Erica Berrett
Erica Berrett (Bar. No. 13826)
Senior Deputy Attorney General

DECLARATION OF ERICA BERRETT

I, ERICA BERRETT, being first duly sworn under oath, deposes and states as follows:

1. I am an attorney licensed to practice law in all courts within the State of Nevada and am employed as a Senior Deputy Attorney General in the Office of the Nevada Attorney General. I have been assigned to represent Respondents in *Robert Berman v. State of Nevada, et al.*, Case No. 2:21-cv-01359-APG-BNW, and as such, have personal knowledge of the matters contained herein.

2. This Motion is made in good faith and not for the purpose of delay.

3. The response to the Amended Petition (ECF No. 6) is due December 2, 2022.

4. This case is being transferred to Deputy Attorney General John Dorame, who is newly starting with the Nevada Attorney General's Post-Conviction Division this week. His appearance is expected to be entered soon. Deputy Dorame will need time to familiarize with this case and federal habeas in general.

5. Since the date that this Court denied Respondents' motion to dismiss and ordered Respondents to answer Berman's claims, I have had to devote much of my time to drafting and filing other federal habeas pleadings, including an opposition to motion for relief from judgment in *Voss v. Olsen*, 3:22-cv-00174-MMD-CLB; a motion to dismiss in capital habeas matter *Powell v. Reubart*, 2:06-cv-01264-KJD-DJA; an opposition to motion to stay in *Dale v. Williams*, 3:20-cv-00031-MMD-CLB; and an amended answer in *Guy v. Baca*, 2:11-cv-01809-APG-NJK. I continue to work on the answer in the capital habeas matter, *Byford v. Reubart, et al.*, 3:11-cv-00112-JCM-CSD, which is now on a fifth extension, due December 30, 2022, and for which the Court has indicated it is unlikely to grant further extensions. Moreover, I have an oral argument set on December 9, 2022, in the Ninth Circuit Court of Appeals for *Kelsey v. Baker*, 22-15557, 3:18-cv-00174-MMD-CLB, for which I have been preparing.

6. In addition to these case-related responsibilities, my administrative responsibilities as a Senior Deputy have been especially time-consuming in recent months, as we have continued to have turnover within the Nevada Attorney General's Post-Conviction Division, and I am responsible for case assignment and reassignment for almost all federal habeas cases in the Division. I am also responsible to review the pleadings of multiple Deputies, which further limits the time I have available to work on my own cases.

1 7. Based on the foregoing, I respectfully request an enlargement of time of ninety (90) days,
2 up to and including March 2, 2023, in which to file Respondents' answer.

3 Executed on November 21, 2022.

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5 /s/ Erica Berrett
6 Erica Berrett (Bar No. 13826)

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8 IT IS SO ORDERED:

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11 UNITED STATES DISTRICT JUDGE

12 DATED: November 22, 2022
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